

AMENDATORY SECTION (Amending WSR 06-06-020, filed 2/21/06, effective 6/1/06)

WAC 296-900-100 Scope. This chapter applies to the following requirements and information regarding administration of the Washington Industrial Safety and Health Act (WISHA), chapter 49.17 RCW:

- Employer requests for using an alternative to WISHA requirements.
- Workplace inspections conducted by WISHA.
- Citations and penalties for violations of WISHA safety and health requirements.
- How to respond to actions that WISHA may take when requirements have been violated.
- Employer correction of cited violations, and notification to WISHA when the corrections are made.
- Employer obligations to inform employees.
- Reporting alleged safety and health hazards.
- Appeal and hearing processes for employers and employees.
- Safety and health investment projects (SHIP).

NEW SECTION

WAC 296-900-175 Safety and health investment projects.

NEW SECTION

WAC 296-900-17505 Scope and purpose. (1) The program for safety and health investment projects (SHIP) was established during the 2007 legislative session to provide funding for safety and health projects for workplaces covered by the medical aid fund.

(2) Priority is given to projects involving accident prevention through cooperation between employers and employees or their representatives.

NEW SECTION

WAC 296-900-17510 Definitions. (1) **Applicant** means the entity submitting an application and formal proposal for a safety and health investment projects award.

(2) **Department** means the department of labor and industries.

(3) **Department staff** means those individuals within the department of labor and industries who assist with project development and monitor recipient performance.

(4) **Funding cycle** means how frequently safety and health investment project awards are given.

(5) **Medical aid fund** refers to industrial insurance funds established in chapter 51.44 RCW.

(6) **Milestones** means critical points of achievement for the safety and health investment projects, showing progress toward project completion. Milestones are interim accomplishments that define project progress.

(7) **Product** means any of the following that are developed as the result of a safety and health investment project: Written materials; manufactured materials; designs; equipment; programs; services; workplace changes; or other results of any kind, tangible or intangible.

(8) **Recipient** means an agency, firm, organization, individual or other legal entity receiving project award funds from the safety and health investment projects.

NEW SECTION

WAC 296-900-17515 Eligibility. (1) All projects must address the needs of employers and employees covered by the medical aid fund.

(2) Projects must have clearly identified:

(a) Objectives and work plan;

(b) Products; and

(c) Criteria for evaluating the success of the project.

(3) Awards may be granted to any agency, firm, organization, individual or other legal entity such as, but not limited to, the following:

(a) Trade associations;

(b) Business associations;

(c) Employers (including but not limited to private, public, nonprofit, or self-insured employers if collaborating with medical aid fund employers);

(d) Employees;

(e) Labor unions;

(f) Employee organizations;

(g) Joint labor and management groups;

(h) Educational institutions in collaboration with state fund

employer and employee representatives;

(i) Others deemed appropriate by L&I.

(4) SHIP funds may not be used for:

(a) Lobbying or political activities;

(b) Supporting, opposing, or developing legislative or regulatory initiatives;

(c) Any activity not designed to reduce workplace injuries, illnesses, or fatalities; or

(d) Reimbursing employers for the normal costs of complying with safety and health rules.

NEW SECTION

WAC 296-900-17520 Advisory committee. (1) The department will create an advisory committee representing the broadest spectrum of interests, appointed by the assistant director of the division of occupational safety and health (DOSH), and consisting of:

(a) Three employer representatives;

(b) Three employee representatives;

(c) Two members with expertise in safety and health selected by the assistant director; and

(d) One nonvoting member from DOSH who will serve as committee chair.

(2) Members are appointed to serve three-year renewable terms. At the request of the assistant director of DOSH, employer and employee organizations may make recommendations for advisory committee membership.

(3) The advisory committee will provide the following assistance:

(a) Make recommendations to DOSH regarding funding priority areas;

(b) Recommend applications that merit funding to the assistant director of DOSH;

(c) Keep records of the committee's decisions;

(d) Make recommendations to DOSH regarding individual project expenditure limitations and appropriate indirect costs;

(e) Develop and maintain communication networks in the community.

(4) Committee members will disclose to the committee any potential conflicts of interest with specific project applications, whether direct or indirect. The committee will determine whether a member's connection to a project should result in recusal from voting on the project. The committee's decision and reasons supporting the decision will be documented in the meeting minutes.

(5) Committee members will not disclose any information about applications to anyone not authorized access to the information by law or regulation. All applications and other material submitted under this program are confidential and are not open to public

inspection. See RCW 49.17.210.

NEW SECTION

WAC 296-900-17525 Application. (1) Interested applicants may download an application packet from the web site, or for a printed application, contact:

Safety and Health Investment Projects

P.O. Box 44640

Olympia, WA 98504-4640

e-mail: INVEST@lni.wa.gov

web site: SafetyGrants.lni.wa.gov

(2) Applicants must complete the entire application to be considered for project funding. Incomplete applications will not be considered for funding. Applications are accepted throughout the year, and funding is awarded throughout each six-month funding cycle. Application deadlines are posted at SafetyGrants.lni.wa.gov. Applications received after posted deadlines will not be considered for the current funding cycle. However, they may be considered for a subsequent funding cycle at the discretion of the assistant director of DOSH, or designee.

(3) Some funding cycles may include limitations on the maximum amount that will be awarded for any proposal. Limitations, if any, will be posted at SafetyGrants.lni.wa.gov or in current application packets.

(4) All products developed as a result of an approved SHIP project belong in the public domain and their dissemination and use shall not be restricted in any way. Such products may not be copyrighted, patented, claimed as trade secrets, or otherwise restricted in any other way. The department retains the right to publish or otherwise disseminate these products as the department in its sole discretion deems appropriate.

(5) The department will not use information contained in submitted application packets as the basis for the initiation of compliance inspections or the issuance of citations and/or penalties to applicants, under WISHA, chapter 49.17 RCW. However, employers are not exempt from compliance inspections initiated for other reasons because they submitted an application packet.

(6) Projects may include, but are not limited to:

(a) The development of technical innovation and engineering controls;

(b) Best practices;

(c) Education and training;

(d) Priorities identified by DOSH in cooperation with the WISHA advisory committee; and

(e) Other projects that foster accident prevention through cooperation between employers and employees or their representatives.

NEW SECTION

WAC 296-900-17530 Approval. (1) DOSH will review applications to make sure they meet application criteria, and forward those that meet the criteria to the advisory committee.

(2) The advisory committee will:

(a) Review project applications;

(b) Prioritize and select, by a majority vote of the eligible voting members, those projects recommended for funding, with a minority report allowed;

(c) Forward project recommendations to the assistant director of DOSH for final approval.

(3) The assistant director of DOSH will make a final decision on project approval and funding.

(a) Approval will be based on the ability of the project to foster accident prevention through cooperation between employers and employees or their representatives; the likelihood of reducing workplace injuries, illnesses, or fatalities; and the ability of the applicant to achieve project goals. Assessment will be based on an objective scoring method developed by the department.

(b) If the assistant director rejects an application the committee has recommended for funding or approves an application the committee recommended for denial, the assistant director will provide a written explanation to the advisory committee. The advisory committee may request reconsideration of such decision by a majority vote of the voting members, with a minority report allowed. The assistant director will reconsider the decision in consultation with the director.

(4) Applicants will be notified in writing when their application is:

(a) Approved for funding;

(b) Not approved, including the reason it was not funded; or

(c) Held over for a subsequent funding cycle.

(5) Upon approval of an application and before project activities begin, the department and the applicant will enter into a written agreement. The agreement:

(a) Includes the approved application packet in its entirety, which will outline the project scope and timeline, activities, work plan, milestones, and products; and

(b) Spells out the terms and conditions governing the project, project participants, and the products resulting from the project.

NEW SECTION

WAC 296-900-17535 Monitoring. Department staff will monitor projects for compliance with award terms and achievement of approved project milestones and/or outcomes.

(1) Milestones are intermediate targets or goals that are

defined in the project applications. Ongoing funding will be tied to the achievement of approved milestones (including but not limited to accounting for grant funds).

(2) Outcomes are the final products that will be produced by the project.

NEW SECTION

WAC 296-900-17540 Suspension or revocation of funding. (1)
The assistant director of DOSH may suspend or revoke funding for a project if advised by the SHIP program or the advisory committee that:

(a) The recipient is not in compliance with project award terms;

(b) There are unapproved funding expenditures; or

(c) There are compelling and substantive reasons.

(2) Any suspension or revocation will:

(a) Be in writing and delivered by either personal service or certified mail. The suspension or revocation will be effective upon service or five days after being mailed by certified mail;

(b) Include the reasons for suspension or revocation; and

(c) Be subject to appeal as described in chapter 34.05 RCW, the Administrative Procedure Act and contain an explanation of how to appeal the department's decision.